

REMARKS

Reconsideration of the present application is respectfully requested.

With regard to the restriction requirement, Applicants again respectfully assert it is not well made; the application claims one invention. In any event, Applicants respectfully request that the Examiner conduct a full and thorough search of the art when examining the pending claims. Again, Applicants respectfully assert that a proper search of any one of the identified inventions ought to require a search in all the other identified classes and subclasses in order to ensure that the patent office avoids issuing an invalid patent. Surely there ought to be no dispute that thoroughly searching the database trumps any perceived burden on the Examiner to ensure that art that should have been found is not overlooked. Since only one invention was presented in the present application, although claimed in different ways, no burden on the Examiner has been relieved by examining less than all of the originally submitted claims. Therefore, Applicants again respectfully request that the restriction requirement be withdrawn and that the present application be thoroughly and properly searched so that all the art that should be found is found.

Claims 11-16 and 19-20 stand rejected under 35 USC §112, first paragraph, based upon the Examiner apparently reading the claim inconsistent with Applicants' specification, which is forbidden by the MPEP and relevant case law. Applicants concede that the specification does not include support for the misinterpreted subject matter asserted in the office action. Nevertheless, in order to avoid a nonproductive bickering match with the Examiner and to advance prosecution, Applicants have amended claim 11 in a way that should prevent it from being misinterpreted in the way evidenced by the office action. Therefore, Applicants respectfully request that the §112, first paragraph, rejection be withdrawn.

Claims 11-16, 19 and 20 stand rejected under 35 USC §112, second paragraph, for the reasons noted in the office action. In response, Applicants have amended the claims in a way that is believed to overcome these rejections. Applicants note that in other applications an Examiner is often helpful in suggesting what language might overcome a §112 rejection of the type made in this application. Therefore, if the Examiner is of the opinion that any of the §112 rejections has not been overcome by Applicants' claim amendments, Applicants respectfully invite the Examiner to make a helpful suggestion in order to advance the prosecution of this

application and avoid leaving Applicants in the position of speculating as to what might remedy an identified problem in the claim language. Applicants respectfully request that all of the §112, second paragraph, rejections be withdrawn.

Claim 11-14, 16 and 19 stand rejected under 35 USC §102(a) over Egler. In addition, claim 20 stands rejected under 35 USC §102(a) and/or §103(a) over Egler. There ought to be no dispute that the cited reference is in a language other than English, but there is no evidence of record that the Examiner has obtained a translation as required by the MPEP. Thus, the record is unclear as to what precise facts the Examiner is relying upon to support the rejections.

Therefore, Applicants respectfully request that either the Examiner withdraw the outstanding rejections or obtain a translation and make the same of record so that Applicants are not left in the unfair position of speculating as to where Applicants' claimed features may be found in the cited reference. On the other hand, if the Examiner is making the rejections based upon what is inherently supposedly shown in one or more of the Figures of the cited reference, that too should also be made of record to show that no translation is necessary. While the Egler Figures appear similar to the structure claims improperly restricted from this application, it is entirely unclear whether Egler teaches Applicants' claimed methodology without review of a translation not yet of record. However, Applicants would point out that the supposed needle control chamber 52 of Egler is unaffected in its fluid connection to the passage 70 of Egler by any position of the thing identified as its needle control valve 68. Applicants also take issue with a failure of the office action to discuss the features of all of Applicants' claims. Therefore, Applicants respectfully request that if the outstanding rejections are not withdrawn, that they be presented in any subsequent office action in a way that accurately reflects what the reference shows and/or teaches, and that an appropriate translation be made of record as required by the MPEP so that the record is clear as to the precise facts the Examiner is relying upon to support the outstanding rejections. Thus, since a proper prima facie rejection of any of the Applicant's claims based upon the foreign language reference of Egler requires that a translation be made of record, a proper prima facie case against Applicants' claims have not been made, and Applicants respectfully request that any subsequent office action therefore not be made final.


Claims 11-16, 19 and 20 stand rejected on the ground of nonstatutory obvious-type double patenting over claims 8-13 of co-owned U.S. Patent No. 7,116,131. Applicants respectfully disagree for several reasons. First, the cited patent was based upon an application filed after the

present application and therefore because patent terms are based upon filing date it would be impossible for the present application to unjustly extend any patent term related to the cited patent. Therefore, the nonstatutory double patenting rejection is not applicable and should be withdrawn. In addition, the double patenting rejection is not well made since the identified claims 8-13 of the cited patent do not disclose the claimed invention. Disclose means disclose, not partly disclose. For instance, there is nothing in the cited claims of the cited patent that in any way discusses or identifies or renders obvious the limitation of equalizing hydraulic pressure forces on a needle valve member. Therefore, it is impossible for the cited reference to disclose subject matter about which it is silent, again showing that the double patenting rejection is not well made and should be withdrawn.

Claims 11-16, 19 and 20 stand rejected on a nonstatutory obvious-type double patenting based upon claims 9-19 of co-owned Patent 7,134,616. Again, Applicants respectfully disagree since the cited claims of the identified Patent flatly fail to disclose Applicant's claimed invention. Again, the claims of the cited reference cannot possibly disclose subject matter about which is silent. Again, and for instance, where are Applicant's claimed limitations regarding equalizing hydraulic pressure forces on the needle valve member? Thus, Applicants respectfully request that either the double patenting rejection be withdrawn, or that the Examiner expand the rejection to specifically identify where Applicant's claimed subject matter is supposedly rendered obvious or "disclosed" in the identified claims of the cited co-owned Patent.

This application is believed to be in condition for allowance of claims 1-20. However, if the Examiner believes that some minor additional clarification would put this application in even better condition for allowance, the Examiner is invited to contact the undersigned attorney at (812) 333-5355 in order to hasten the prosecution of this application.

Respectfully submitted,


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